

10/29/07

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

07 OCT 29 PM 4:06

UNITED STATES OF AMERICA,

Plaintiff,

v.

Maria Del Rocio Jimenez

Defendant.

Magistrate Case No.

COMPLAINT FOR VIOLATION OF

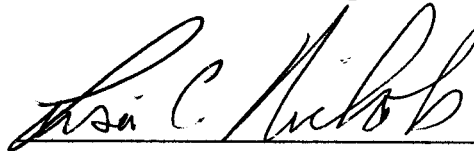
Title 18, U.S.C. Sec. 545
Importation of Merchandise
(Wildlife) Into the United
States Contrary to Law

'07 MJ-2548

The undersigned complainant, being duly sworn states:

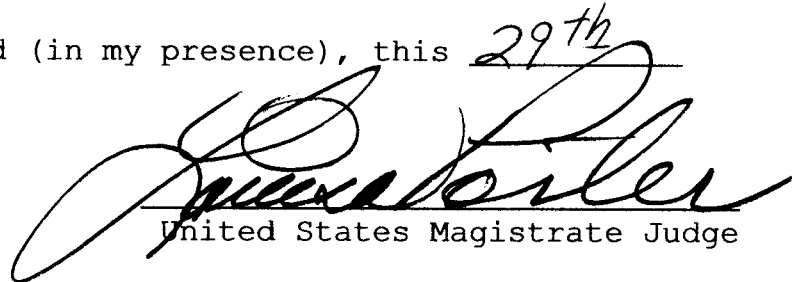
That on or about May 25, 2007, within the Southern District of California, defendant MARIA DEL ROCIO JIMENEZ-Gonzalez did knowingly and fraudulently import merchandise, to wit: Ten (10) parrots, into the United States from Mexico, in a manner contrary to law, in violation of Title 18, United States Code, Section 545.

The complainant further states that this complaint is based on the statement of facts attached hereto and fully incorporated herein.



Lisa C. Nichols, Special Agent
United States Fish and Wildlife
Service

Sworn to me, and Subscribed (in my presence), this 29th
day of October, 2007.



United States Magistrate Judge

AFFIDAVIT

I, Lisa C. Nichols, (Complainant), being duly sworn, hereby depose and say:

I am a Special Agent (SA) of the United States Fish and Wildlife Service (USFWS) and have been so employed since May 1994. I was previously employed by the United States Customs Service as an Inspector in the Division of Law Enforcement for more than ten years. I have conducted and participated in a number of investigations involving violations of wildlife law, including complex investigations of illegal trade of wildlife in both international and interstate commerce. My duties also include the enforcement of the Endangered Species Act and the Lacey Act. I also enforce regulations of the Wild Bird Conservation Act, and of the Convention on International Trade in Endangered Species of Fauna and Flora (CITES), an international treaty to which the United States is a signatory country. I am presently assigned to the San Diego, California office of the USFWS.

A Special Agent for the U.S. Fish & Wildlife Service is granted authority to enforce the Lacey Act and the Endangered Species Act, under 16 U.S.C. 3375(b) and 16 U.S.C. 1540(e)(3). The Endangered Species Act, in part, [16 U.S.C. 1538] makes it unlawful for any person subject to the jurisdiction of the United States to engage in trade or to possess any specimens traded contrary to the provisions of Convention on International Trade in Endangered Species of Fauna and Flora (CITES). Mexico is a signatory country to the CITES treaty and has prohibited the export of all wildlife listed in the CITES categories without an export permit. All of the birds (Amazon parrots) seized in this case are classified in the Order Psittaciformes. All birds of the Order Psittaciformes are

1 classified as at least Appendix II of CITES, and therefore require
2 a CITES export permit from the country of origin in order to import
3 them into the United States. CITES Appendix I birds require a
4 permit from both the country of export, and the country of import.

5 The Lacey Act, 16 U.S.C. 3372(a)(1) makes it unlawful for any
6 person to import, export, transport, sell, receive, acquire, or
7 purchase any fish or wildlife or plant taken, possessed,
8 transported or sold in violation of any law, treaty, or regulation
9 of the United States or in violation of any Indian tribal law.

10 U.S. Customs law prohibits the smuggling of merchandise into
11 the United States. Title 18 U.S.C. Section 545 states, in
12 pertinent part, that it is unlawful to fraudulently or knowingly
13 import or bring into the United States any merchandise contrary to
14 law, or receive, conceal, buy, sell, or in any manner facilitate
15 the transportation, concealment, or sale of such merchandise after
16 importation, knowing the same to have been imported or brought into
17 the United States contrary to law.

18 19 **FACTS OF THE ARREST**

20 1. On 05/25/2007, at 9:45pm, U.S. Customs and Border
21 Protection (CBP) Officer Agustin Cinco was conducting a primary
22 inspection of the vehicle driven by Maria Del Rocio Jimenez-
23 Gonzalez, at the Otay Mesa, CA Port of Entry. CBPO Cinco asked what
24 Jimenez-Gonzalez was bringing back into the United States, and she
25 responded with a negative declaration. In a written statement, CBPO
26 Cinco said that after getting two negative declarations, he
27 conducted a brief inspection of the vehicle on primary. He noticed
28 something bulky in the back seat between the two boys seated in the

1 back. The object was covered by a blanket. When the blanket was
2 removed CBPO discovered a cardboard box containing ten (10) live
3 parrots.

4 2. The vehicle, a Toyota Highlander, CA license plate
5 5DGK436, was escorted to the secondary inspection area by CBPO
6 Cinco, and CBPO Sarinana seized the birds. Jimenez was released
7 and allowed to keep her car.

8 3. The birds found in Jimenez' car were later identified by
9 U.S. Department of Agriculture/Animal, Plant Health Inspection
10 Service (USDA/APHIS) veterinarian technician Mark Gable as yellow
11 headed Amazon parrots (*Amazona oratrix*). The ten birds have a retail
12 value of approximately \$8,000.00 to \$10,000.00. This species of
13 wildlife require CITES permits from Mexico, before they can be
14 imported into the United States. The yellow headed Amazon parrots
15 are CITES Appendix I species, and would also require a CITES permit
16 from the U.S. Fish & Wildlife Service (USFWS) before legal
17 importation would be allowed. Jimenez had no permits of any kind
18 for the birds.

19 4. On 10/12/2007, at about 7:30am, a vehicle driven by Maria
20 Del Rocio Jimenez-Gonzalez was stopped by CBP officers at the San
21 Ysidro Port of Entry. Immigration and Customs Enforcement (ICE)
22 Special Agent (SA) James Yates, and USFWS SA Lisa Nichols were
23 notified, and responded to the port. At about 9:10am, SA Yates and
24 SA Nichols were joined by ICE SA Mario Hernandez. They conducted an
25 interview of Jimenez, with SA Hernandez translating Spanish and
26 English. SA Hernandez read Jimenez her rights in Spanish, and
27 allowed her to read her rights in Spanish. Jimenez waived her
28 rights and agreed to speak to the officers.

1 5. During the initial interview, Jimenez denied knowing that
2 it was illegal to bring birds into the country from Mexico, and told
3 the agents that she bought the birds from a street vendor in Mexico,
4 because she wanted them as gifts for her bothers and cousins. Later
5 she stated that she had been told by a bird vendor in a swap meet
6 in Spring Valley, CA that she could bring one to three birds across
7 the border. When asked if she knew how many birds were in the box,
8 Jimenez admitted that she knew there were about ten birds.

9 6. She later admitted that the birds were given to her by her
10 brother, Raul Jimenez, while they were in Mexico, and she agreed to
11 transport them across the border, and meet her brother just north
12 of the Otay Mesa POE. She admitted that she did not declare them
13 because she knew it was wrong to bring them into the country, and
14 that she could get in trouble.

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